

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK
CASE NO. 1:09-CIV-05583 (JFK) (GWG)

CURTIS JAMES JACKSON, III
p/k/a 50 CENT, TOMORROW
TODAY ENTERTAINMENT INC.,
a New York corporation, and
G-UNIT RECORDS, a New York
corporation,

Plaintiffs,

v.

LEE Q. ODENAT, a/k/a "Q," d/b/a
WWW.WORLDSTARHIPHOP.COM,
WORLDSTAR HIP HOP, INC., a Nevada
Corporation; WORLDSTAR, LLC, a Delaware
limited liability company; WSHH337, LLC,
a Delaware limited liability company;
JOHN DOE LLC(S)/CORPORATION(S)

Defendants,

v.

YVES MONDESIR,

Third-Party Defendant.

**PLAINTIFFS' STATEMENT OF MATERIAL FACTS AS
TO WHICH THERE IS NO GENUINE ISSUE TO BE TRIED
IN SUPPORT OF MOTION FOR PARTIAL SUMMARY JUDGMENT**

Plaintiffs CURTIS JAMES JACKSON, III p/k/a 50 CENT, TOMORROW
TODAY ENTERTAINMENT INC., a New York corporation, and G-UNIT RECORDS,
a New York corporation, by and through undersigned counsel, and pursuant to Rule 56,
Fed.R.Civ.P. and Local Rule 56.1, hereby file this Statement Of Material Facts As To

Which There Is No Genuine Issue To Be Tried In Support of Plaintiffs' Motion For Partial Summary Judgment:

50 Cent, G-Unit and www.thisis50.com

1. Plaintiff Curtis James Jackson, III p/k/a 50 Cent is a resident of Connecticut with business offices in New York. Plaintiff Jackson is the sole officer and director of Plaintiff TOMORROW TODAY ENTERTAINMENT INC. ("TTE"), and Plaintiff G-UNIT RECORDS, both New York corporations, conducting business in New York. D/CJ-¶¶ 1-3.

2. Plaintiff is a world-renowned, enormously popular and successful recording artist, rap and hip-hop performer, record producer, actor and entrepreneur. Jackson's albums released to date have sold more than 25 million copies. 50 Cent has also starred in films, including the 2005 movie Get Rich or Die Tryin' and has earned 13 Grammy nominations. He is one of the most recognized and admired musical artists in the world. D/CJ-¶ 5.

3. 50 Cent has a huge fan base largely comprised of the 18-35 year-old age demographic and is particularly well known and popular among fans of hip-hop music. D/CJ-¶ 10.

4. In addition to being a solo recording artist, record producer and rap and hip-hop performer, 50 Cent is a member of the rap and hip-hop group known as "G-Unit," and the President of Plaintiff G-Unit Records, a well-known and popular record company which produces and markets recordings of hip-hop, and other music, including by the musical group G-Unit and the individual members thereof. In 2003, 50 Cent created the G-Unit Clothing Company, an urban clothing line marketed and promoted

under the trademark G-UNIT.

5. The G-UNIT mark has become a strong, well and favorably known designation of origin to the general public throughout the United States for the goods and services of 50 Cent with sales exceeding \$150 million. D/CJ-¶ 14.

6. Plaintiff has put forth undisputed evidence of the strength of the G-UNIT trademark. D/CJ-¶ 14-17

7. In addition to these businesses, 50 Cent is also the President and sole owner of Plaintiff TTE, which owns and operates the popular internet website, www.this50.com, devoted to 50 Cent, G-Unit and coverage of the hip-hop industry. Plaintiffs' website, launched in 2007, makes extensive use of 50 Cent's image and the G-UNIT marks. D/CJ-¶ 22.

8. Plaintiff has emphasized branding and the growth of his trademarks and endorsement opportunities as part of a long-term business plan and has very successfully parlayed his fame as a musical artist to a significant separate revenue stream endorsing others' products and services, including endorsements for, clothing, sneakers, cars, vitamin water, video games, satellite radio, body fragrances, backpacks, watches, audio headphones, energy shots and others. D/CJ-¶¶ 14-17.

9. Defendant does not dispute that both Jackson and G-Unit are extremely well known, particularly among hip hop fans. Q1-85-87, 150-151.

10. 50 Cent is highly-compensated when he does choose to endorse a product. D/CJ-¶ 18. By 2007, when Defendant Odenat was utilizing 50 Cent's image and trademark to build his website business without compensation, 50 Cent had already earned cumulatively in excess of \$150,000,000 from endorsement deals and was

commanding his strongest deals in the marketplace up to that point in time. In fact, by 2007, one third to one half of 50 Cent's income was derived through branding ventures as opposed to recorded music, music publishing, live touring, and movies and television combined. D/CJ-¶ 19.

11. Plaintiff Jackson is the President of Plaintiff Tomorrow Today Entertainment Inc., which owns and operates the popular internet website, www.thisis50.com, devoted to 50 Cent, G-Unit and coverage of the hip-hop industry. Plaintiffs' website makes extensive use of 50 Cent's image and the G-UNIT marks. The website was launched in 2007. D/CJ-¶ 22.

12. THIS IS 50 is a registered trademark owned by Plaintiff. D/CJ-¶ 23.

13. The business plan, content and target audience of thisis50.com is virtually the same as that of Odenat's website, worldstarhiphop.com. The financial success of both websites depends on driving traffic, or viewers, to the site which in turn makes the websites attractive to advertisers who pay to advertise on the websites. The content of both websites has historically included hip hop related gossip, music and videos. The target audience of both websites is the 18 to 35 demographic and typically hip hop fans. D/CJ-¶ 23, 25; Q1-62, 88-89, 151.

c. Defendants' website, the evolution of

14. Defendant LEE Q. ODENAT (a/k/a/ "Q") (either individually or through wholly owned corporations) owns, maintains, manages and operates the website www.worldstarhiphop.com which was launched in July 2005. Q1-39.

15. Prior to that, Odenat operated a website which Odenat described as a 100% Whoo Kid site – it was all his mixtapes.” Q1-186-187; 190. “All his cd’s everyone he worked with, Mob Deep, Puggy, all the rappers.” Q1-188.

16. From approximately 2002 to 2006, Third Party Defendant DJ Whoo Kid was involved in a for-profit enterprise of producing and distributing mixtapes as physical CDs for sale. WK-24-29; 97.

17. In addition to mixtapes that included the music of 50 Cent and G-Unit, this mixtape business also distributed mixtapes that included the music of 40 to 60 other artists. WK-31.

18. Mixtapes, including the series known as “G-Unit Radio,” are for promotional purposes. Jackson did not authorize Odenat or Whoo Kid to sell mixtapes that include music by G-Unit or 50 Cent. CJ-110-113.

19. None of the artists who appeared on the mixtapes were paid from the sale of the mixtapes. WK-29.

20. During the time of this mix-tape “business,” Whoo Kid utilized at least 40 distributors, including Odenat, to distribute mixtape CDs to what he called “mom and pop” stores. WK-31.

21. DJ Whoo Kid has always been paid as an independent contractor for any deejay work he has performed for the musical group G-Unit or 50 Cent. WK-70-73; ShS-58-60.

22. Odenat has testified that he believes Whoo Kid is in fact a member of G-Unit. Q1-192. DJ Whoo Kid is not a member of the musical group G-Unit

but is rather a deejay who works for his own company, Shadyville, and is one of many deejays for hire by that company. D/CJ-¶26; WK-49.

23. Odenat has testified that when he launched worldstarhiphop.com in 2005, he wanted a broader focus, including “other artists and other DJ’s.” Q1-190.

24. From 2005 to the end of 2007, according to Odenat, the primary content of worldstarhiphop.com was mixtapes. However, by early 2008, the focus shifted to videos. Q1-62-64.

25. Worldstarhiphop.com earns money two ways: advertisers pay for ads on the website; and musical artists pay to have videos posted on the site. Q1-17; 88-89. Q3-11-12. Prior to 2008, the website had a paid subscription service. WK-24-29; Q1-79, 196-197.

26. The website’s ability to command fees from advertisers depends on its ability to increase readership or “traffic.” Q1-88.

27. Odenat utilized various 50 Cent images and/or the G-Unit trademark from at least sometime in 2006 to March of 2009 (with a possible interruption in either 2007 or 2008 due to the site having been “hacked”). DE 1, Ex. B; Q-22, 199-200; ED-129, 149.

28. Odenat admits that his uses of 50 Cent’s images and the G-Unit mark were in connection with advertising his website. DE 1, ¶ 1; DE 7, ¶ 1.

29. Per Plaintiff’s unrebutted expert, this time period constituted critical building years for attracting viewers to Odenat’s website. Specifically, based on publicly available information, Odenat’s website had over 109 million page views and experienced its steepest growth from 2006 to March, 2009 (average monthly growth from 2007 through March, 2009 was 45.5%). D/AS-¶¶ 26-28.

30. Odenat readily admits the success of the website: “The site is in the top 1,000 websites on the planet so you know traffic is enormous.” Q1-15

31. Since receiving Plaintiff’s cease and desist letter in March, 2009, Odenat has changed the format of the website and no longer uses a masthead at all to promote itself:

Q: So today do you still use a banner with top artists on your website?

A: Well, no, because I don’t need to... Q1-24

32. When worldstarhiphop.com did utilize the masthead format, the masthead was the sole identifier of the source of the goods and services offered by the website itself, the only way a customer knew with whom it was doing business. D/CJ-¶25

33. Defendant’s website undisputedly solicits business in New York and is displayed and viewed in New York. www.worldstarhiphop.com; Q1-15; D/KS-¶ 2.

34. Defendant’s website undisputedly solicits business nationally and the website is displayed and viewed nationally. www.worldstarhiphop.com; Q1-15; D/KS-¶ 2.

The Three Images Used on the Masthead of www.worldstarhiphop.com

35. There are three Mastheads (or top “banners”) of worldstarhiphop.com at issue. Each utilize the image of 50 Cent, together with the Worldstar Hip Hop name and logo in close proximity thereto. In fact, those are the two common denominators in all three Mastheads. D/CJ-¶ 25.

36. Each Masthead appeared at the top of the first page of the website. Odenat: “That was the top header, front page, first image you see.” Q1-59.

37. Odenat has testified that the 3 Mastheads presented here are the only mastheads used by the site from inception of the site to March, 2009 when he received Plaintiff's cease and desist letter. Q1-75.

38. Defendant claims that he no longer has the ability to produce copies of the prior Mastheads or content on the website because the website maintained no back-up files, he had changed servers and he had been "hacked" or "deleted" by others. Q1-199-200; ED-129, 149.

39. As to each Masthead, Odenat claims not to know who actually created the banner, *i.e.*, who put the images and Worldstar's name together, only that he paid unnamed graphic artists to do it. Q2-22; Q1-81-82.

40. Odenat has provided no evidence that these banners were created by third parties.

Masthead #1 (50 Cent Robot)

41. Masthead #1 depicts a side view of 50 Cent prominently displayed in the foreground just above the Worldstar Hip Hop name. Several side view robotic images appear opposite 50 Cent's image. Behind 50 Cent, although difficult to distinguish, are images of hip hop artists Jay Z and Jim Jones. Q1-26.

42. Odenat testified that while he does not know the exact dates that this banner was posted on the site, he believes that it was from at least January, 2008 until March of 2009 when he received Plaintiff's cease and desist letter. Q1-22.

43. As to Masthead #1, Odenat testified that he told an unnamed company: "I want a futuristic banner" "of the hottest rappers." Q1-25. Odenat told the graphic artist:

“to create a banner which – with the hottest artists at that time put in a banner to – that’s it and that’s his liking. He chose 50 Cent, Jay Z and Jim Jones.” Q1-47.

44. Odenat’s use of this image coincided with when the site became “full video” and had dispensed with paid membership to download mixtapes. Q1-79, 197.

45. The actual source of the prominently displayed 50 Cent image on Masthead #1 is unknown but is believed to be part of the photo shoot for the Jackson album “Curtis” and is available for public viewing on the internet. D/CJ-¶ 25.

46. Jackson never authorized Odenat to utilize any of the images for Masthead # 1 of his website. D/CJ-¶ 28.

Masthead # 2 (All G-Unit).

47. This image is in fact a montage of individual images of G-Unit members and DJ Whoo Kid that have been “cut and pasted” together to form what appears to be a group photo of the musical group G-Unit together with DJ Whoo Kid. D/CJ-¶ 26. The group composite photo is positioned directly above World Star’s name. See *id.* Starting with the image in the upper left-hand side and moving clockwise, the image is of 50 Cent, Young Buck, Tony Yayo, Whoo Kid, and Lloyd Banks. See *id.*

48. The source of the 50 Cent and Young Buck images in masthead #2 is the cover of a hip hop magazine known as “XXL” (special year end 2006 edition). D/CJ-¶ 26.

49. G-Unit Records is a registered copyright co-owner of the remaining two G-Unit member images: The image of Tony Yayo is from the photo shoot for the album “Thoughts of a Predicate Felon” and the image of Lloyd Banks is from the photo shoot for the album “Beg for Mercy.” D/SH-¶¶ 2-3. Interscope Records, a division of UMG

Recordings, Inc. (“Universal Music Group”) registered the copyrights to these photographs with the U.S. Copyright Office on behalf of Interscope and G-Unit Records. D/CJ-26; D/SH-¶ 2,3. Copies of these photos of Tony Yayo and Lloyd Banks can also be found for public viewing on the internet. D/CJ-¶ 26.

50. Odenat has testified he believes this Masthead was utilized on the website for “between six months and a year.” Q1-75. Masthead # 2 was displayed on Defendant’s website at least as recently as August 2006, as reflected on, *inter alia*, Exhibit B to the Complaint (DE 1, p. 21). Odenat says that he “probably paid some kid \$40 or \$50 to put together this masthead” and did not “know where he got these images from.” Q1-71-73; 83.

51. Odenat testified that at the time of Masthead #2, his sole purpose was to promote Whoo Kid. Q1-70.

52. In addition to 50 Cent’s image and the two copyrighted images of Yayo and Banks, Masthead #2 also utilized “G-UNIT,” a registered trademark of Plaintiff. D/CJ-¶ 13.

53. Masthead # 2, including the composite image of the musical group G-Unit, the top-centered direct route tab to G-Unit Radio and the sole G-Unit content on the rest of the page, gives the viewer the overall impression that Worldstar is an official G-Unit website. *See also* D/AS-¶¶ 19-23.

54. The mixtape series known as “G-Unit Radio” is a mixtape series that includes music by Jackson and G-Unit, as well as music by many other artists that was obtained from these other artists by DJ Whoo Kid. Neither Jackson nor his record company claims any ownership interest in this mixtape series other than the music which

Jackson or G-Unit contributed to the series. DJ Whoo Kid compiled the music, did the arrangements, added his own voice to it and put together the packaging, although there were a couple of mixtape covers as to which he asked Jackson for in-put. D/CJ-¶ 29.

55. The placement and context of “G-Unit Radio” on Defendant’s website is entirely different from other mixtape sites as attested to by Plaintiff’s unrefuted expert including the one example testified to by Odenat himself. D/AS-¶ 22.

56. Jackson never authorized Odenat to utilize any of the images for Masthead # 2 of his website. D/CJ-¶ 28.

Third image (Various Artists).

57. In this image, 50 Cent is depicted along with various other well known hip hop artists and with Whoo Kid front and center. As with the other Mastheads, the Worldstar Hip Hop name is prominently featured as part of the overall image. D/CJ-¶ 25. In order, from left to right, are images of the following people: Lil Wayne, Jim Jones, Chamillionare, Whoo Kid, 50 Cent, Jay Z and Young Jeezy. Q1-201.

58. Like the others, Odenat testified that “this is another header which was part of the site that was designed [by] someone” unidentified. Q1-201 Although Odenat could not state the precise time period this image was used, he thought it was used for a 6 -12 month period ending in April of 2007. Q1-201-202.

59. The image of Jackson on Masthead #3 (Various Artists) is from an album photo shoot for the 50 Cent album entitled “The Massacre.” D/CJ-¶ 27.

60. Jackson never authorized Odenat to utilize any of the images for Masthead #3 of his website. D/CJ-¶ 28.

61. It is undisputed that Odenat did not seek permission from 50 Cent or any of the other members of the musical group G-Unit to utilize any of their images for any of Worldstarhiphop.com's various Mastheads. Q1-164, 171, 202; Q2-54, 69; D/CJ-¶ 28.

62. Odenat has provided various unsupported and contradictory explanations as to why he thought it was permissible to use 50 Cent's image. Q1- 27, 28, 115-116; Q2-23; Q1-26, 29, 171. Odenat has never produced any evidence that any of the three Mastheads represent the cover or packaging from any mixtape. Q1-167-68.

Confusion

63. There are two levels of "consuming public" for Defendant's website -- the average viewer of the website, known to be typically 18-35 year old hip hop fans, who are likely not sophisticated consumers, and advertisers, who are likely a bit more sophisticated as consumers. Q1-62, 88-89, 151.

64. There have been numerous potential advertisers and others who have inquired or believed that there was either an affiliation between the two websites, common ownership, or that they were one and the same. D/CJ-¶24; D/CN; CJ-71, 77, 192; ShS-37.

65. For example, an e-mail to worldstarhiphop.com dated September 14, 2011 states :

Is there any package you can give an artist with featured video and advertising on the homepage? **Also, does that include being on your other affiliate sites like thisis50.com?** D/KS-¶ 3

66. Defendant has registered and placed on worldstarhiphop.com's server the following domain names "www.thisis50.comwww.worldstarhiphop.com" and "wwg-

unitw.worldstarhiphop.com”, which blatantly incorporate Plaintiff’s tradename and trademarks, in order to draw more customers to his own website. D/AS¶¶ 4-11.

67. A disproportionate association continues between Plaintiff and G-Unit and Defendant’s website, due to the Defendant’s sustained use of 50 Cent and G-Unit’s images on worldstarhiphop.com during its building years and its continued use of domain names *utilizing Plaintiff’s brands*, “thisis50” and “G-Unit.” D/AS-¶¶9-11, 19-23.

Odenat’s entities

68. When this action was filed Odenat, individually, was doing business as www.worldstarhiphop.com, and owned, maintained, managed and operated the website www.worldstarhiphop.com. DE 1, ¶ 5, DE 7, ¶ 5.

69. Worldstar Hip Hop, Inc. is a Nevada corporation formed in September, 2009 whose purpose was to own and operate the website www.worldstarhiphop.com . Worldstar Hip Hop, Inc., Int. Ans. 1 and 2, D/KS-¶ 5.

70. Lee Q. Odenat is the sole officer and director of Worldstar Hip Hop, Inc. Worldstar Hip Hop, Inc., Int. Ans. 3, D/KS-¶ 5.

71. There is no evidence that Worldstar Hip Hop, Inc. was capitalized when it was formed. DC-22-23, 209.

72. Worldstar Hip Hop, Inc. has no employees. Worldstar Hip Hop, Inc., Int. Ans. 10, D/KS-¶ 5; Q3-80-81.

73. Worldstar Hip Hop, Inc. has never had employees. DC-214.

74. No documents exist evidencing officers, director or employees of Worldstar Hip Hop, Inc. for the past two years. Worldstar Hip Hop Inc., Doc. Response No. 10, D/KS-¶ 5.

75. After its formation, ownership and control of the website www.worldstarhiphop.com was transferred by Odenat to Worldstar Hip Hop, Inc. for no consideration. DC-268-269; Q3-152, 154.

76. After the transfer Odenat testified that, with regard to the www.worldstarhiphop.com website, he was the “owner, CEO, president, chairman, everything.” Q1-13.

77. [REDACTED]

78. Worldstar LLC is a Delaware limited liability company formed in February, 2011 whose purpose is to own and operate the website www.worldstarhiphop.com . Worldstar, LLC., Int. Ans. 1 and 2; Certificate of Formation, D/KS-¶¶ 6,7.

79. [REDACTED]

80. Lee Q. Odenat is the sole manager of Worldstar, LLC . Worldstar, LLC, Int. Ans. 4. D/KS-¶ 6.

81. There is no evidence that Worldstar LLC was capitalized when it was formed. DC-25, 220.

82. Worldstar LLC has no employees, and never has. Worldstar, LLC Int. Ans. 10, D/KS-¶ 6, DC-224.

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83. No documents exist evidencing officers, director or employees of Worldstar, LLC for the past two years. Worldstar, LLC, Doc. Response No. 10, D/KS-¶ 6.

84. After its formation, ownership and control of the website www.worldstarhiphop.com was transferred by Worldstar Hip Hop, Inc. to Worldstar, LLC for no consideration. DC-117, 268-269; Q3-192.

85. [REDACTED]

[REDACTED]

86. [REDACTED]

[REDACTED]

87. [REDACTED]

[REDACTED]

[REDACTED]

88. [REDACTED]

[REDACTED]

89. [REDACTED]

[REDACTED]

90. [REDACTED]

[REDACTED]

91. [REDACTED]

[REDACTED]

92. With regard to the corporate structure of Odenat's entity, his in-house counsel Mr. Coats stated:

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Worldstar, LLC is wholly owned by Worldstar Management, LLC, which is wholly owned by Worldstar Hip Hop, Inc., which is 100% owned by, technically the Lee Q. Odenat Trust dated April 15, 2011, or something like that. **But for all intents and purposes, is Lee Odenat.** It's a revocable living trust, the IRS disregards it, the trust EIN for any bank accounts that are in the trust's name is Mr. Odenat's Social Security number.

DC-142

93. Lee Odenat is the 100% owner of World Star Hip Hop, Inc. and the website. DC-163; Q4-28.

94. Odenat is the sole responsible individual that is involved with Worldstar Hip Hop, Inc. DC-205.

95. [REDACTED]

96. The employees of Worldstar Management, LLC perform functions for Worldstar Hip Hop, LLC and Worldstar, LLC. DC-279, SS-4-5.

97. E-mail addresses ending in "@worldstarhiphop" are used by employees of Worldstar Management, LLC. DC-279.

98. Worldstar Hip Hop, Inc. is the 100% owner of Worldstar Management, LLC. D/KS-¶ 8.

99. Worldstar Management, LLC's purpose is to be party to employment contracts for employees who perform work for all of Odenat's Worldstar entities to try to insulate Odenat's business assets from potential employee claims. DC-14-18. There are no employment contracts, just an understanding of employment. DC-36.

100. Worldstar Management, LLC maintains a 100 percent ownership interest in Worldstar, LLC. Worldstar, LLC Int. Ans. 11, D/KS-¶ 6.

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101. Worldstar, LLC maintains a 100 percent ownership interest in the website www.worldstarhiphop.com. DC-30.

102. There are no written agreements concerning the transfer of the website. DC-34.

103. There are no written agreements between or among Odenat and any of his entities relating to the operation of the website. DC-28.

104. The trademark WORLD STAR HIP HOP was registered by World Star Hip Hop, Inc. in July, 2011 and assigned to Worldstar, LLC in September, 2011. D/KS-¶¶ 2, 9.

105. There was no consideration paid for the assignment of the WORLD STAR HIP HOP trademark. Q3-192.

106. With regard to evidence of ownership of Worldstar, LLC and Worldstar Hip Hop, Inc., the corporate representative and in-house counsel of those entities, Donald Coats, testified:

I would have to look to see if there was something in the files that actually evidenced that ownership. **But obviously given that Lee Odenat is the top of the pyramid here, you know, it's all going to relate back to him.**

DC-29-30

107. Neither Worldstar, LLC, nor Worldstar Management, LLC nor Worldstar Hip Hop, Inc. have any physical office location. All of these entities share a common mail drop address: 16211 North Scottsdale Road, Scottsdale, AZ 85254. Q3-4, 64; SS-17-18.

108. [REDACTED]

[REDACTED]

109. [REDACTED]

[REDACTED]

[REDACTED]

110. [REDACTED]

[REDACTED]

111. [REDACTED]

[REDACTED]

112. [REDACTED]

[REDACTED]

113. [REDACTED]

[REDACTED]

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sealing

114.

[REDACTED]

115.

[REDACTED]

Q:

[REDACTED]?

A:

[REDACTED]

116.

[REDACTED]

Q:

[REDACTED]?

A:

[REDACTED]

Q:

[REDACTED]

...

A:

[REDACTED]

Q:

[REDACTED]

A:

[REDACTED]

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order re: seal without waiving any objections to
sealing

117. [REDACTED]

[REDACTED]

118. [REDACTED] h

[REDACTED]

119. [REDACTED]

[REDACTED]

120. [REDACTED] p

[REDACTED] SS

[REDACTED]

121. [REDACTED]

[REDACTED]

122. [REDACTED]

[REDACTED]

123. [REDACTED] listed with

[REDACTED] for personal expenses

124. [REDACTED]

[REDACTED]

125. [REDACTED]

[REDACTED]

126. [REDACTED] quarter of a million dollars

[REDACTED]

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127. [REDACTED]

128. [REDACTED]

129. [REDACTED]

130. [REDACTED]

131. [REDACTED]

132. Defendants engage in substantial business transactions involving New York. Q4-10-11; D/KS-¶ 4.

133. New York is one of the top cities that Defendant Odenat frequents for business travel related to the website. Q4-10-11.

134. WorldStarHipHop.com has featured interactivity from its founding to the present day. D/KS-¶ 10.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished U.S. Mail to: Scott Zarin, Zarin & Associates, P.C., Zarin & Associates P.C., One Penn Plaza, Suite 4615, New York, NY 10119 and to Yves Mondesir, 135 Clarken Drive, West Orange NJ 07052 this 18th day of January, 2013.

By: s/Karen L. Stetson